

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BMC SOFTWARE, INC.,

Plaintiff,

v.

SERVICENOW, INC.,

Defendant.

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CASE NO. 2:14-CV-903-JRG

ORDER

The Court enters this Order *sua sponte*. Before the Court are numerous pre-trial motions filed by Plaintiff BMC Software, Inc. (“BMC”) and Defendant ServiceNow, Inc. (“ServiceNow”) that are set for hearing on Monday, January 25, 2016 at 9:00 a.m.

The Court will hear argument on the motions in the following order:

Order	Dkt. No.	Description
1	296	BMC’s Motion to Sever and Stay and Conditional Amended Notice of Claim Election
2	149	BMC’s Motion to Strike ServiceNow’s Prior Art This Motion was mistakenly included in a list of motions denied as moot in the Court’s January 22, 2016 Order. (Dkt. No. 305.) The denial of Dkt. No. 149 as moot in the Court’s January 22, 2016 Order is hereby SET ASIDE .
3	201	BMC’s Emergency Motion to Strike with Prejudice New Improper Invalidity Contentions in ServiceNow’s Expert Reports and “Amended Invalidity Contentions,” and Renewal of Its Pending Motion to Strike (Dkt. No. 149)
4	220	ServiceNow’s Motion to Strike BMC Software’s Untimely New Infringement Theories
5	235	ServiceNow’s Motion for Summary Judgment of Invalidity Pursuant to 35 U.S.C. § 101
6	226	BMC’s Motion to Strike and Exclude Opinions of ServiceNow’s Technical Consultants Contrary to Court’s Claim Constructions


Order	Dkt. No.	Description
7	232	ServiceNow's Motion to Strike Expert Testimony of Dr. Mark Jones
8	234	ServiceNow's Motion to Strike Expert Testimony of Dr. Hugh Smith
9	237	ServiceNow's Motion to Exclude Testimony of Dr. Michael P. Akemann
10	224	BMC's Motion to Strike the Expert Report of Tim Crawford
11	225	BMC's Motion to Strike Expert Reports of Dr. Keller, Dr. Weissman, Dr. Greenberg and Mr. Bakewell Relating to Undisclosed Non-Infringing Alternatives
12	228	ServiceNow's Motion for Summary Judgment That '093 Patent Claim 16 Is Invalid
13	233	ServiceNow's Motion to Strike Expert Testimony of Dr. Benjamin Bederson

The Parties have informed the Court that several motions have been resolved (Dkt. Nos. 298, 304). Accordingly, the following motions are **DENIED AS MOOT**:

Dkt. No.	Description
227	BMC's Motion to Strike Bakewell Expert Report
229	ServiceNow's Motion for Summary Judgment of Non-Infringement Under the Doctrine of Equivalents
230	ServiceNow's Motion to Strike Expert Testimony Responding to ServiceNow's Selected Prior Art
231	ServiceNow's Motion for Summary of No Liability for Infringement Pursuant to 28 U.S.C. Section 1498(A)
236	ServiceNow's Motion to Exclude the Testimony of Frederick Leopoldi

So Ordered this

Jan 22, 2016


 RODNEY GILSTRAP
 UNITED STATES DISTRICT JUDGE